

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 741 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
PRAVINKUMAR S PATEL

Versus

HEAD MASTER  
-----

Appearance:

MR SURESH M TRIVEDI for Petitioner  
RULE SERVED for Respondent No. 1  
MR PK JANI for Respondent No. 2  
MR DN PATEL, ASST. GOVT. PLEADER for Respondent No. 3, 4, 5  
-----

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 07/04/2000

ORAL JUDGEMENT

Despite the order passed by the Court earlier on  
31.3.2000, respondents No. 1, 2 and 3 have not bothered  
to remain personally present before the Court. Learned

Advocate appearing for the petitioner stated that the petitioner is present before the Court. He submitted that injustice is done to his client. However, as no relief was granted to the petitioner, the petitioner has engaged himself in a business in partnership dealing in provision stores as well as drugs and cosmetics and he is earning sufficient amount to meet with the requirements. The petitioner is present before the Court and stated that in view of the fact that he is earning good amount, he is not interested in prosecuting this proceedings any further.

2. It is required to be noted that despite the fact that the respondents were served, they have not bothered to file any reply in the matter and this being a service matter, with a view to see that students are not deprived of services of a teacher, possibly the learned Single Judge passed an order that the appointment that may be made will be subject to the result of the petition and at that time, it was not known that the matters will be heard after number of years. The school management, though represented, did not care to file a reply and did not bother to point out to the Court whether anyone is appointed or not, but it seems that after the order was passed by the Court on 21.3.1988, School management appointed someone. According to the learned advocate for the petitioner, one Balvantbhai Patel had been appointed since long.

3. None of the respondents has chosen to remain present. However, it is pointed out from the note by the learned Additional Government Pleader Mr. Patel that the appointment that has been made is in contravention of the provisions contained in the rules. Only persons belonging to Scheduled Cast/Tribe were to be interviewed and thus persons belonging to reserved categories were required to be called for interview; That was not done. The management has selected a person having no expertise in the subject which was the requirement. District Education Officer appears to have given 'No Objection Letter' for appointment without satisfying that the person selected is meeting with the requirement. Thus, the appointment is made in violation of these rules.

The respondent school management has not bothered to file any reply even after the matter was admitted and there is serious lapse on the part of the school management. Even the District Education Officer has not bothered to file any reply.

However, as the petitioner is not interested and

the petitioner has fairly stated that even he is not interested in the cost of the litigation, it would be just and proper to dispose of this petitioner as not pressed on the ground that the petitioner has already chosen another walk of life. The petitioner fairly stated that he would not like to put the Institute as also the person appointed in difficulty after gap of number of years. He also stated that he would not like to put unnecessary monetary burden on the school management. We appreciate the gesture shown by the petitioner.

However, this Court has to see that the gesture shown by the petitioner should not permit the school management to believe that they are not answerable. Non-filing of reply seems to be only with a view to avoid the responsibility of placing true and correct material before the Court. In the facts and circumstances of the case, it is directed that the Respondents No.1 and 2 shall deposit a sum of Rs.2000/- before the Legal Aid Committee of this Court and the amount shall be utilised for payment of fees to lawyers who appear for the persons who are not in a position to engage lawyers. The amount shall be paid by the respondents No.1 and 2 within four weeks from today. Registry to communicate this order to the respondents No.1 and 2 forthwith.

The petition stands disposed of as not pressed.  
Rule is discharged. Interim relief stands vacated.

(B.C. PATEL, J.)

csm./